

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MELVIN JAMES and U.S. POSTAL SERVICE,  
POST OFFICE, South Suburban, Ill.

*Docket No. 97-1602; Submitted on the Record;  
Issued April 2, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant has established that he has more than a 25 percent permanent impairment of the right third finger for which he has received a schedule award.

The Board has duly reviewed the case record and finds that appellant has not established that he has more than a 25 percent permanent impairment of the right third finger.

This is the second appeal of this case. By decision and order dated October 17, 1996,<sup>1</sup> the Board remanded the case to the Office of Workers' Compensation Programs for further development. The Board noted that the Office's schedule award for 25 percent permanent impairment of the right third finger was based upon the Office medical adviser's calculations utilizing the examination findings of record. The Board also noted, however, that the record was unclear as to whether appellant had sustained a right wrist and ulnar injury as a result of the accepted employment injury, which also had resulted in a permanent impairment.

On remand, the Office requested that Dr. Sawchyn, appellant's treating physician, address whether appellant sustained any permanent impairment to the right wrist and ulnar nerve as a result of the employment injury, in addition to the right ring finger impairment. He submitted his progress notes of appellant's examinations and a narrative report dated November 26, 1996. In the report dated November 26, 1996, Dr. Sawchyn stated that appellant had sustained a fracture of the fourth metacarpal as a result of the employment injury and had undergone surgical repair and rehabilitation. He stated that on his last visit in 1993, appellant had no finding of "any disability"; had full range of motion of "the hand" except for minimal swelling due to a fight he had been in over that weekend. Dr. Sawchyn concluded that he could find no evidence that appellant had sustained any permanent "disability". The Office then requested that the Office medical adviser, Dr. Bellabarba, review the case record and provide an opinion as to whether appellant was entitled to an additional schedule award. In a report dated

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<sup>1</sup> Docket No. 95-570 (issued October 17, 1996).

February 12, 1997, Dr. Bellabarba reported that he had reviewed that entire medical record and could find no objective evidence to support any additional award for permanent impairment of the right hand. He explained that there was no evidence that the work-related injury should have had any effect on appellant's right wrist.

By decision dated February 25, 1997, the Office denied appellant's claim for an additional schedule award on the grounds that the evidence of record failed to establish that appellant sustained any additional compensable permanent impairment as a result of the accepted injury.

Section 8107 of the Federal Employees' Compensation Act provides that, if there is a permanent disability involving the loss or loss of use of a member or function of the body, the claimant is entitled to a schedule award for the permanent impairment of the scheduled member or function. For consistent results and to insure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants in the evaluation of permanent physical impairment. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the Office as a standard for evaluating schedule losses and the Board has concurred in such adoption.<sup>2</sup>

Pursuant to the Board's decision and order dated October 17, 1996, the Office requested that Dr. Sawchyn clarify whether appellant had any additional impairment to the right hand resulting from the accepted injury, in addition to the award for 25 percent permanent impairment of the right ring finger. The Office did obtain an additional report from Dr. Sawchyn and then obtained a complete review of the case record by the Office medical adviser. Neither Dr. Sawchyn nor the Office medical adviser found that appellant had any additional permanent impairment to the right wrist, hand or fingers resulting from the accepted employment injury. The Board has reviewed the physical findings as stated in Dr. Nagle's report dated April 21, 1994 and the calculation of permanent impairment of the right third finger premised upon these findings as stated by the Office medical adviser. The Board concludes that the Office medical adviser properly applied the A.M.A., *Guides* to Dr. Nagle's findings, utilizing Tables 19, 21 and 23 for loss of motion,<sup>3</sup> and Tables 11 and 13 for sensory loss.<sup>4</sup> The Board also notes that appellant did not submit any further medical evidence to support his claim of additional permanent impairment. The Board finds that the medical evidence of record does not support an additional schedule award.

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<sup>2</sup> *Lena P. Huntley*, 46 ECAB 643 (1995).

<sup>3</sup> A.M.A., *Guides* at pages 32-34.

<sup>4</sup> *Id.* at pages 48-51.

The decision of the Office of Worker's Compensation Programs dated February 15, 1997 is hereby affirmed.

Dated, Washington, D.C.  
April 2, 1999

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member